



State of Wisconsin
2003 - 2004 LEGISLATURE

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT *to repeal* 51.30 (4) (b) 10m., 980.02 (2) (ag), 980.03 (5), 980.05 (1m),
2 980.09 (1) (title), 980.09 (2) and 980.10; *to renumber* 46.055, 978.13 (2) and
3 980.01 (1); *to renumber and amend* 938.396 (2) (e), 978.043, 980.015 (1),
4 980.015 (4), 980.03 (4), 980.04 (2), 980.07 (1), 980.09 (1) (a), 980.09 (1) (b) and
5 980.09 (1) (c); *to amend* 20.435 (2) (bm), 46.03 (1), 46.055 (title), 46.058 (2m),
6 48.396 (1), 48.396 (5) (a) (intro.), 51.30 (3) (a), 51.30 (3) (b), 51.30 (4) (b) 8m.,
7 51.30 (4) (b) 11., 51.375 (1) (a), 109.09 (1), 146.82 (2) (c), 301.45 (1g) (dt), 301.45
8 (3) (a) 3r., 301.45 (3) (b) 3., 301.45 (5) (b) 2., 756.06 (2) (b), 801.52, 808.04 (3),
9 808.04 (4), 808.075 (4) (h), 905.04 (4) (a), 911.01 (4) (c), 938.396 (1), 938.396 (5)
10 (a) (intro.), 938.78 (2) (e), 946.42 (1) (a), 950.04 (1v) (xm), 967.03, 972.15 (4),
11 978.03 (3), 978.045 (1r) (intro.), 978.05 (6) (a), 978.05 (8) (b), 980.01 (5), 980.01
12 (6) (a), 980.01 (6) (b), 980.01 (6) (c), 980.01 (7), 980.015 (2) (intro.), 980.015 (2)
13 (a), 980.015 (2) (b), 980.015 (2) (c), 980.02 (1) (a), 980.02 (2) (c), 980.02 (4)
14 (intro.), 980.03 (2) (intro.), 980.03 (3), 980.04 (1), 980.04 (3), 980.05 (1), 980.05
15 (3) (a), 980.05 (3) (b), 980.065 (1m), 980.07 (2), 980.07 (3), 980.09 (title), 980.101

1 (2) (a), 980.11 (2) (intro.) and 980.12 (1); **to repeal and recreate** 809.10 (1) (d),
2 809.30 (1) (c), 809.30 (1) (f) and 980.08; and **to create** 46.055 (2), 48.396 (6),
3 48.78 (2) (e), 48.981 (7) (a) 8s., 51.30 (3) (bm), 51.30 (4) (b) 8s., 118.125 (2) (ck),
4 146.82 (2) (cm), 756.06 (2) (cm), 814.61 (1) (c) 6., 938.35 (1) (e), 946.42 (3m),
5 972.15 (6), 973.155 (1) (c), 978.043 (2), 978.13 (2) (a), 980.01 (1g), 980.01 (1m),
6 980.01 (6) (am), 980.01 (6) (bm), 980.015 (1) (b), 980.015 (2) (d), 980.02 (1) (b)
7 3., 980.02 (1m), 980.02 (6), 980.031 (title), 980.031 (1) and (2), 980.034, 980.036,
8 980.038, 980.04 (2) (b), 980.05 (2m), 980.07 (1) (b), 980.07 (1g), 980.07 (1m),
9 980.07 (4) to (7), 980.093, 980.095, 980.14 (title) and 980.14 (1) of the statutes;
10 **relating to:** the definition of sexually violent person, sexually violent person
11 commitment proceedings, criteria for supervised release, escape from custody
12 by a person who is subject to a sexually violent person commitment proceeding,
13 creating a committee to make recommendations regarding the location of a
14 facility for the treatment of sexual predators, payments in lieu of taxes and
15 grants for a municipality in which such a facility is located, making an
16 appropriation, and providing penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

17 **SECTION 1.** 20.435 (2) (bm) of the statutes is amended to read:
18 20.435 (2) (bm) *Secure mental health units or facilities; payments relating to*
19 *transitional facilities.* The amounts in the schedule for the general program
20 operations of secure mental health units or facilities under s. 980.065 for persons

1 committed under s. 980.06 and placed in a secure mental health unit or facility and
2 for making payments to municipalities under s. 46.055 (2) (b) and grants to
3 municipalities under s. 46.055 (2) (c).

4 **SECTION 2.** 46.03 (1) of the statutes is amended to read:

5 46.03 (1) INSTITUTIONS GOVERNED. Maintain and govern the Mendota and the
6 Winnebago mental health institutes; the secure mental health facility established
7 under s. 46.055 (1); and the centers for the developmentally disabled.

8 **SECTION 3.** 46.055 (title) of the statutes is amended to read:

9 **46.055 (title) ~~Secure mental health facility~~ Facilities for sexually**
10 **violent persons.**

11 **SECTION 4.** 46.055 of the statutes is renumbered 46.055 (1).

12 **SECTION 5.** 46.055 (2) of the statutes is created to read:

13 46.055 (2) (a) In this subsection, “transitional facility” means the facility that
14 is enumerated in 2001 Wisconsin Act 16, section 9107 (1) (d) 1., and that will be a
15 transitional facility for the housing of persons committed to the custody of the
16 department under ch. 980.

17 (b) Annually, from the appropriation under s. 20.435 (2) (bm), the department
18 shall pay a municipality in which a transitional facility is located a sum in lieu of
19 taxes for the services, improvements, or facilities that the municipality furnishes to
20 the transitional facility. The municipality shall determine the amount that the
21 department shall pay, but it may not exceed the amount that would be levied as the
22 annual property tax of the municipality upon the transitional facility.

23 (c) Annually, from the appropriation under s. 20.435 (2) (bm), the department
24 shall make a grant of \$100,000 to a municipality in which a transitional facility is

1 located to reimburse the municipality for the cost of providing additional security for
2 the area in which the transitional facility is located.

3 **SECTION 6.** 46.058 (2m) of the statutes is amended to read:

4 46.058 (2m) The superintendents of the secure mental health facility
5 established under s. 46.055 (1), the Wisconsin resource center established under s.
6 46.056 and any secure mental health unit or facility provided by the department of
7 corrections under s. 980.065 (2) shall adopt proper means to prevent escapes of
8 persons detained or committed to the facility, center or unit under ch. 980 and may
9 adopt proper means to pursue and capture persons detained or committed to the
10 facility, center or unit under ch. 980 who have escaped. In adopting means under this
11 subsection to prevent escape and pursue and capture persons who have escaped, a
12 superintendent may delegate to designated staff members of the facility, center or
13 unit the power to use necessary and appropriate force, as defined by the department
14 by rule, to prevent escapes and capture escaped persons.

15 **SECTION 7.** 48.396 (1) of the statutes is amended to read:

16 48.396 (1) Law enforcement officers' records of children shall be kept separate
17 from records of adults. Law enforcement officers' records of the adult expectant
18 mothers of unborn children shall be kept separate from records of other adults. Law
19 enforcement officers' records of children and the adult expectant mothers of unborn
20 children shall not be open to inspection or their contents disclosed except under sub.
21 (1b), (1d) ~~or~~, (5), or (6) or s. 48.293 or by order of the court. This subsection does not
22 apply to the representatives of newspapers or other reporters of news who wish to
23 obtain information for the purpose of reporting news without revealing the identity
24 of the child or expectant mother involved, to the confidential exchange of information
25 between the police and officials of the school attended by the child or other law

1 enforcement or social welfare agencies or to children 10 years of age or older who are
2 subject to the jurisdiction of the court of criminal jurisdiction. A public school official
3 who obtains information under this subsection shall keep the information
4 confidential as required under s. 118.125 and a private school official who obtains
5 information under this subsection shall keep the information confidential in the
6 same manner as is required of a public school official under s. 118.125. A law
7 enforcement agency that obtains information under this subsection shall keep the
8 information confidential as required under this subsection and s. 938.396 (1). A
9 social welfare agency that obtains information under this subsection shall keep the
10 information confidential as required under ss. 48.78 and 938.78.

11 **SECTION 8.** 48.396 (5) (a) (intro.) of the statutes is amended to read:

12 48.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
13 (1), (1b) ~~or~~, (1d), or (6) may petition the court to order the disclosure of the records
14 governed by the applicable subsection. The petition shall be in writing and shall
15 describe as specifically as possible all of the following:

16 **SECTION 9.** 48.396 (6) of the statutes is created to read:

17 48.396 (6) Records of law enforcement officers and of the court assigned to
18 exercise jurisdiction under this chapter and ch. 938 shall be open for inspection by
19 and production to authorized representatives of the department of corrections, the
20 department of health and family services, the department of justice, or a district
21 attorney for use in the evaluation or prosecution of any proceeding under ch. 980, if
22 the records involve or relate to an individual who is the subject of or who is being
23 evaluated for a proceeding under ch. 980. The court in which the proceeding under
24 ch. 980 is pending may issue any protective orders that it determines are appropriate
25 concerning information made available or disclosed under this subsection. Any

SECTION 9

1 representative of the department of corrections, the department of health and family
2 services, the department of justice, or a district attorney may disclose information
3 obtained under this subsection for any purpose consistent with any proceeding under
4 ch. 980.

5 **SECTION 10.** 48.78 (2) (e) of the statutes is created to read:

6 48.78 (2) (e) Notwithstanding par. (a), an agency shall, upon request, disclose
7 information to authorized representatives of the department of corrections, the
8 department of health and family services, the department of justice, or a district
9 attorney for use in the evaluation or prosecution of any proceeding under ch. 980, if
10 the information involves or relates to an individual who is the subject of or who is
11 being evaluated for a proceeding under ch. 980. The court in which the proceeding
12 under ch. 980 is pending may issue any protective orders that it determines are
13 appropriate concerning information made available or disclosed under this
14 paragraph. Any representative of the department of corrections, the department of
15 health and family services, the department of justice, or a district attorney may
16 disclose information obtained under this paragraph for any purpose consistent with
17 any proceeding under ch. 980.

18 **SECTION 11.** 48.981 (7) (a) 8s. of the statutes is created to read:

19 48.981 (7) (a) 8s. Authorized representatives of the department of corrections,
20 the department of health and family services, the department of justice, or a district
21 attorney for use in the evaluation or prosecution of any proceeding under ch. 980, if
22 the reports or records involve or relate to an individual who is the subject of or who
23 is being evaluated for a proceeding under ch. 980. The court in which the proceeding
24 under ch. 980 is pending may issue any protective orders that it determines are
25 appropriate concerning information made available or disclosed under this

1 subdivision. Any representative of the department of corrections, the department
2 of health and family services, the department of justice, or a district attorney may
3 disclose information obtained under this subdivision for any purpose consistent with
4 any proceeding under ch. 980.

5 **SECTION 12.** 51.30 (3) (a) of the statutes is amended to read:

6 51.30 (3) (a) Except as provided in pars. (b) ~~and~~, (bm), (c), and (d), the files and
7 records of the court proceedings under this chapter shall be closed but shall be
8 accessible to any individual who is the subject of a petition filed under this chapter.

9 **SECTION 13.** 51.30 (3) (b) of the statutes is amended to read:

10 51.30 (3) (b) An individual's attorney or guardian ad litem and the corporation
11 counsel shall have access to the files and records of the court proceedings under this
12 chapter without the individual's consent and without modification of the records in
13 order to prepare for involuntary commitment or recommitment proceedings,
14 reexaminations, appeals, or other actions relating to detention, admission, or
15 commitment under this chapter or ch. 971 ~~or~~, 975, or 980.

16 **SECTION 14.** 51.30 (3) (bm) of the statutes is created to read:

17 51.30 (3) (bm) The files and records of court proceedings under this chapter
18 shall be released to authorized representatives of the department of corrections, the
19 department of health and family services, the department of justice, or a district
20 attorney for use in the evaluation or prosecution of any proceeding under ch. 980, if
21 the files or records involve or relate to an individual who is the subject of or who is
22 being evaluated for a proceeding under ch. 980. The court in which the proceeding
23 under ch. 980 is pending may issue any protective orders that it determines are
24 appropriate concerning information made available or disclosed under this
25 paragraph. Any representative of the department of corrections, the department of

SECTION 14

1 health and family services, the department of justice, or a district attorney may
2 disclose information obtained under this paragraph for any purpose consistent with
3 any proceeding under ch. 980.

4 **SECTION 15.** 51.30 (4) (b) 8m. of the statutes is amended to read:

5 51.30 (4) (b) 8m. To appropriate examiners and facilities in accordance with s.
6 971.17 (2) (e), (4) (c), and (7) (c), ~~980.03 (4) or 980.08 (3)~~. The recipient of any
7 information from the records shall keep the information confidential except as
8 necessary to comply with s. 971.17 ~~or ch. 980~~.

9 **SECTION 16.** 51.30 (4) (b) 8s. of the statutes is created to read:

10 51.30 (4) (b) 8s. To appropriate persons in accordance with s. 980.031 (4) and
11 to authorized representatives of the department of corrections, the department of
12 health and family services, the department of justice, or a district attorney for use
13 in the evaluation or prosecution of any proceeding under ch. 980, if the treatment
14 records involve or relate to an individual who is the subject of or who is being
15 evaluated for a proceeding under ch. 980. The court in which the proceeding under
16 ch. 980 is pending may issue any protective orders that it determines are appropriate
17 concerning information made available or disclosed under this subdivision. Any
18 representative of the department of corrections, the department of health and family
19 services, the department of justice, or a district attorney may disclose information
20 obtained under this subdivision for any purpose consistent with any proceeding
21 under ch. 980.

22 **SECTION 17.** 51.30 (4) (b) 10m. of the statutes is repealed.

23 **SECTION 18.** 51.30 (4) (b) 11. of the statutes is amended to read:

24 51.30 (4) (b) 11. To the subject individual's counsel or guardian ad litem and
25 the corporation counsel, without modification, at any time in order to prepare for

1 involuntary commitment or recommitment proceedings, reexaminations, appeals, or
2 other actions relating to detention, admission, commitment, or patients' rights under
3 this chapter or ch. 48, 971, ~~or~~ 975, or 980.

4 **SECTION 19.** 51.375 (1) (a) of the statutes is amended to read:

5 51.375 (1) (a) "Community placement" means conditional transfer into the
6 community under s. 51.35 (1), conditional release under s. 971.17, parole from a
7 commitment for specialized treatment under ch. 975, or ~~conditional~~ supervised
8 release under ch. 980.

9 **SECTION 20.** 109.09 (1) of the statutes is amended to read:

10 109.09 (1) The department shall investigate and attempt equitably to adjust
11 controversies between employers and employees as to alleged wage claims. The
12 department may receive and investigate any wage claim which is filed with the
13 department, or received by the department under s. 109.10 (4), no later than 2 years
14 after the date the wages are due. The department may, after receiving a wage claim,
15 investigate any wages due from the employer against whom the claim is filed to any
16 employee during the period commencing 2 years before the date the claim is filed.
17 The department shall enforce this chapter and ss. 66.0903, 103.02, 103.49, 103.82,
18 104.12 and 229.8275. In pursuance of this duty, the department may sue the
19 employer on behalf of the employee to collect any wage claim or wage deficiency and
20 ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions
21 under s. 109.10, the department may refer such an action to the district attorney of
22 the county in which the violation occurs for prosecution and collection and the
23 district attorney shall commence an action in the circuit court having appropriate
24 jurisdiction. Any number of wage claims or wage deficiencies against the same
25 employer may be joined in a single proceeding, but the court may order separate

1 trials or hearings. In actions that are referred to a district attorney under this
2 subsection, any taxable costs recovered by the district attorney shall be paid into the
3 general fund of the county in which the violation occurs and used by that county to
4 meet its financial responsibility under s. 978.13 (2) (b) for the operation of the office
5 of the district attorney who prosecuted the action.

6 **SECTION 21.** 118.125 (2) (ck) of the statutes is created to read:

7 118.125 (2) (ck) The school district clerk or his or her designee shall make pupil
8 records available for inspection or disclose the contents of pupil records to authorized
9 representatives of the department of corrections, the department of health and
10 family services, the department of justice, or a district attorney for use in the
11 evaluation or prosecution of any proceeding under ch. 980, if the pupil records involve
12 or relate to an individual who is the subject of or who is being evaluated for a
13 proceeding under ch. 980. The court in which the proceeding under ch. 980 is pending
14 may issue any protective orders that it determines are appropriate concerning pupil
15 records made available or disclosed under this paragraph. Any representative of the
16 department of corrections, the department of health and family services, the
17 department of justice, or a district attorney may disclose information obtained under
18 this paragraph for any purpose consistent with any proceeding under ch. 980.

19 **SECTION 22.** 146.82 (2) (c) of the statutes is amended to read:

20 146.82 (2) (c) Notwithstanding sub. (1), patient health care records shall be
21 released to appropriate examiners and facilities in accordance with ~~ss.~~ s. 971.17 (2)
22 (e), (4) (c) and (7) (c), ~~980.03 (4) and 980.08 (3)~~. The recipient of any information from
23 the records shall keep the information confidential except as necessary to comply
24 with s. 971.17 ~~or ch. 980~~.

25 **SECTION 23.** 146.82 (2) (cm) of the statutes is created to read:

1 146.82 (2) (cm) Notwithstanding sub. (1), patient health care records shall be
2 released to appropriate persons in accordance with s. 980.031 (4) and to authorized
3 representatives of the department of corrections, the department of health and
4 family services, the department of justice, or a district attorney for use in the
5 evaluation or prosecution of any proceeding under ch. 980, if the treatment records
6 involve or relate to an individual who is the subject of or who is being evaluated for
7 a proceeding under ch. 980. The court in which the proceeding under ch. 980 is
8 pending may issue any protective orders that it determines are appropriate
9 concerning records made available or disclosed under this paragraph. Any
10 representative of the department of corrections, the department of health and family
11 services, the department of justice, or a district attorney may disclose information
12 obtained under this paragraph for any purpose consistent with any proceeding under
13 ch. 980.

14 **SECTION 24.** 301.45 (1g) (dt) of the statutes is amended to read:

15 301.45 (1g) (dt) Is in institutional care or on ~~conditional~~ supervised release
16 under ch. 980 on or after June 2, 1994.

17 **SECTION 25.** 301.45 (3) (a) 3r. of the statutes is amended to read:

18 301.45 (3) (a) 3r. If the person has been committed under ch. 980, he or she is
19 subject to this subsection upon being placed on supervised release under s. 980.06
20 (2), 1997 stats., or s. 980.08 or, if he or she was not placed on supervised release,
21 before being discharged under s. 980.09 or ~~980.10~~ 980.093.

22 **SECTION 26.** 301.45 (3) (b) 3. of the statutes is amended to read:

23 301.45 (3) (b) 3. The department of health and family services shall notify a
24 person who is being placed on conditional release, supervised release, conditional
25 transfer or parole, or is being terminated or discharged from a commitment, under

1 s. 51.20, 51.35 or 971.17 or ch. 975 or 980 and who is covered under sub. (1g) of the
2 need to comply with the requirements of this section.

3 **SECTION 27.** 301.45 (5) (b) 2. of the statutes is amended to read:

4 301.45 (5) (b) 2. The person has been found to be a sexually violent person under
5 ch. 980, regardless of whether the person is has been discharged under s. 980.10,
6 2001 stats., s. 980.09 or ~~980.10~~ 980.093 from the sexually violent person
7 commitment, except that the person no longer has to comply with this section if the
8 finding that the person is a sexually violent person has been reversed, set aside or
9 vacated.

10 **SECTION 28.** 756.06 (2) (b) of the statutes is amended to read:

11 756.06 (2) (b) Except as provided in ~~par. pars.~~ and (cm), a jury in a civil case
12 shall consist of 6 persons unless a party requests a greater number, not to exceed 12.
13 The court, on its own motion, may require a greater number, not to exceed 12.

14 **SECTION 29.** 756.06 (2) (cm) of the statutes is created to read:

15 756.06 (2) (cm) A jury in a trial under s. 980.05 shall consist of the number of
16 persons specified in s. 980.05 (2) unless a lesser number has been stipulated to and
17 approved under s. 980.05 (2m) (c). A jury in a hearing under s. 980.09 (2m) or 980.093
18 (3) shall consist of the number of persons specified in s. 980.09 (2m) or 980.093 (3),
19 whichever is applicable, unless a lesser number has been stipulated to and approved
20 under s. 980.095 (3).

21 **SECTION 30.** 801.52 of the statutes is amended to read:

22 **801.52 Discretionary change of venue.** The court may at any time, upon
23 its own motion, the motion of a party or the stipulation of the parties, change the
24 venue to any county in the interest of justice or for the convenience of the parties or
25 witnesses. This section does not apply to proceedings under ch. 980.

1 **SECTION 31.** 808.04 (3) of the statutes is amended to read:

2 808.04 (3) Except as provided in subs. (4) and (7), an appeal in a criminal case
3 or a case under ch. 48, 51, 55 ~~or~~ 938, or 980 shall be initiated within the time period
4 specified in s. 809.30.

5 **SECTION 32.** 808.04 (4) of the statutes is amended to read:

6 808.04 (4) Except as provided in sub. (7m), an appeal by the state in either a
7 criminal case under s. 974.05 or a case under ch. 48 ~~or~~ 938, or 980 shall be initiated
8 within 45 days of entry of the judgment or order appealed from.

9 **SECTION 33.** 808.075 (4) (h) of the statutes is amended to read:

10 808.075 (4) (h) Commitment, supervised release, recommitment, discharge,
11 and postcommitment relief under ss. 980.06, 980.08, 980.09, ~~980.10~~ 980.093, and
12 980.101 of a person found to be a sexually violent person under ch. 980.

13 **SECTION 34.** 809.10 (1) (d) of the statutes, as affected by Supreme Court Order
14 02–01, is repealed and recreated to read:

15 809.10 (1) (d) *Docketing statement.* The person shall send the court of appeals
16 an original and one copy of a completed docketing statement on a form prescribed by
17 the court of appeals. The docketing statement shall accompany the court of appeals'
18 copy of the notice of appeal. The person shall send a copy of the completed docketing
19 statement to the other parties to the appeal. Docketing statements need not be filed
20 in appeals brought under s. 809.105, 809.107, 809.32, or 974.06 (7), in cases under
21 ch. 980, or in cases in which a party represents himself or herself. Docketing
22 statements need not be filed in appeals brought under s. 809.30 or 974.05, or by the
23 state or defendant in permissive appeals in criminal cases pursuant to s. 809.50,
24 except that docketing statements shall be filed in cases arising under chs. 48, 51, 55,
25 or 938.

1 **SECTION 35.** 809.30 (1) (c) of the statutes, as affected by Supreme Court 02-01,
2 is repealed and recreated to read:

3 809.30 (1) (c) “Postconviction relief” means an appeal or a motion for
4 postconviction relief in a criminal case, other than an appeal, motion, or petition
5 under ss. 302.113 (7m), 302.113 (9g), 973.19, 973.195, 974.06, or 974.07 (2). In a ch.
6 980 case, the term means an appeal or a motion for postcommitment relief under s.
7 980.038 (4).

8 **SECTION 36.** 809.30 (1) (f) of the statutes, as affected by Supreme Court 02-01,
9 is repealed and recreated to read:

10 809.30 (1) (f) “Sentencing” means the imposition of a sentence, a fine, or
11 probation in a criminal case. In a ch. 980 case, the term means the entry of an order
12 under s. 980.06.

13 **SECTION 37.** 814.61 (1) (c) 6. of the statutes is created to read:

14 814.61 (1) (c) 6. An action for civil commitment under ch. 51, 55, or 980.

15 **SECTION 38.** 905.04 (4) (a) of the statutes is amended to read:

16 905.04 (4) (a) *Proceedings for hospitalization, control, care, and treatment of*
17 *a sexually violent person, guardianship, protective services, or protective placement.*

18 There is no privilege under this rule as to communications and information relevant
19 to an issue in proceedings to hospitalize the patient for mental illness, to appoint a
20 guardian under s. 880.33, for control, care, and treatment of a sexually violent person
21 under ch. 980, for court-ordered protective services or protective placement, or for
22 review of guardianship, protective services, or protective placement orders, if the
23 physician, registered nurse, chiropractor, psychologist, social worker, marriage and
24 family therapist, or professional counselor in the course of diagnosis or treatment
25 has determined that the patient is in need of hospitalization, control, care, and

1 treatment as a sexually violent person, guardianship, protective services, or
2 protective placement.

3 **SECTION 39.** 911.01 (4) (c) of the statutes is amended to read:

4 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or
5 rendition; sentencing, granting or revoking probation, modification of a bifurcated
6 sentence under s. 302.113 (9g), adjustment of a bifurcated sentence under s. 973.195
7 (1r), issuance of arrest warrants, criminal summonses and search warrants;
8 hearings under s. 980.093 (2); proceedings under s. 971.14 (1) (c); proceedings with
9 respect to pretrial release under ch. 969 except where habeas corpus is utilized with
10 respect to release on bail or as otherwise provided in ch. 969.

11 **SECTION 40.** 938.35 (1) (e) of the statutes is created to read:

12 938.35 (1) (e) In a hearing, trial, or other proceeding under ch. 980 relating to
13 a juvenile.

14 **SECTION 41.** 938.396 (1) of the statutes is amended to read:

15 938.396 (1) Law enforcement officers' records of juveniles shall be kept
16 separate from records of adults. Law enforcement officers' records of juveniles shall
17 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
18 (1m), (1r), (1t), (1x) ~~or~~, (5), or (10) or s. 938.293 or by order of the court. This
19 subsection does not apply to representatives of the news media who wish to obtain
20 information for the purpose of reporting news without revealing the identity of the
21 juvenile involved, to the confidential exchange of information between the police and
22 officials of the school attended by the juvenile or other law enforcement or social
23 welfare agencies, or to juveniles 10 years of age or older who are subject to the
24 jurisdiction of the court of criminal jurisdiction. A public school official who obtains
25 information under this subsection shall keep the information confidential as

1 required under s. 118.125 and a private school official who obtains information under
2 this subsection shall keep the information confidential in the same manner as is
3 required of a public school official under s. 118.125. A law enforcement agency that
4 obtains information under this subsection shall keep the information confidential as
5 required under this subsection and s. 48.396 (1). A social welfare agency that obtains
6 information under this subsection shall keep the information confidential as
7 required under ss. 48.78 and 938.78.

8 **SECTION 42.** 938.396 (2) (e) of the statutes is renumbered 938.396 (10) and
9 amended to read:

10 938.396 (10) ~~Upon request of the department of corrections to review court A~~
11 law enforcement agency's records and records for the purpose of providing, under s.
12 980.015 (3) (a), of the court assigned to exercise jurisdiction under this chapter and
13 ch. 48 shall be open for inspection by authorized representatives of the department
14 of corrections, the department of health and family services, the department of
15 justice, or a district attorney with a person's offense history, the court shall open for
16 inspection by authorized representatives of the department of corrections the
17 records of the court relating to any juvenile who has been adjudicated delinquent for
18 a sexually violent offense, as defined in s. 980.01 (6) for use in the evaluation or
19 prosecution of any proceeding under ch. 980, if the records involve or relate to an
20 individual who is the subject of or who is being evaluated for a proceeding under ch.
21 980. The court in which the proceeding under ch. 980 is pending may issue any
22 protective orders that it determines are appropriate concerning information made
23 available or disclosed under this subsection. Any representative of the department
24 of corrections, the department of health and family services, the department of

1 justice, or a district attorney may disclose information obtained under this
2 subsection for any purpose consistent with any proceeding under ch. 980.

3 **SECTION 43.** 938.396 (5) (a) (intro.) of the statutes is amended to read:

4 938.396 (5) (a) (intro.) Any person who is denied access to a record under sub.
5 (1), (1b), (1d), (1g), (1m), (1r) ~~or~~, (1t), or (10) may petition the court to order the
6 disclosure of the records governed by the applicable subsection. The petition shall
7 be in writing and shall describe as specifically as possible all of the following:

8 **SECTION 44.** 938.78 (2) (e) of the statutes is amended to read:

9 938.78 (2) (e) ~~Paragraph (a) does not prohibit the department from disclosing~~
10 Notwithstanding par. (a), an agency shall, upon request, disclose information about
11 an individual adjudged delinquent under s. 938.183 or 938.34 for a sexually violent
12 offense, as defined in s. 980.01 (6), to authorized representatives of the department
13 of corrections, the department of health and family services, the department of
14 justice, or a district attorney or a judge acting under ch. 980 or to an attorney who
15 represents a person subject to a petition for use in the evaluation or prosecution of
16 any proceeding under ch. 980, if the information involves or relates to an individual
17 who is the subject of or who is being evaluated for a proceeding under ch. 980. The
18 court in which the ~~petition proceeding~~ proceeding under s. 980.02 is filed ch. 980 is pending may
19 issue any protective orders that it determines are appropriate concerning
20 information disclosed under this paragraph. Any representative of the department
21 of corrections, the department of health and family services, the department of
22 justice, or a district attorney may disclose information obtained under this
23 paragraph for any purpose consistent with any proceeding under ch. 980.

24 **SECTION 45.** 946.42 (1) (a) of the statutes is amended to read:

1 946.42 (1) (a) “Custody” includes without limitation actual custody of an
2 institution, including a secured correctional facility, as defined in s. 938.02 (15m), a
3 secured child caring institution, as defined in s. 938.02 (15g), a secured group home,
4 as defined in s. 938.02 (15p), a secure detention facility, as defined in s. 938.02 (16),
5 a Type 2 child caring institution, as defined in s. 938.02 (19r), a facility used for the
6 detention of persons detained under s. 980.04 (1), a facility specified in s. 980.065,
7 or a juvenile portion of a county jail, or actual custody of a peace officer or institution
8 guard. “Custody” also includes without limitation the constructive custody of
9 persons placed on supervised release under a commitment order issued under ch. 980
10 and constructive custody of prisoners and juveniles subject to an order under s.
11 48.366, 938.183, 938.34 (4d), (4h) or (4m) or 938.357 (4) or (5) (e) temporarily outside
12 the institution whether for the purpose of work, school, medical care, a leave granted
13 under s. 303.068, a temporary leave or furlough granted to a juvenile or otherwise.
14 Under s. 303.08 (6) it means, without limitation, that of the sheriff of the county to
15 which the prisoner was transferred after conviction. It does not include the custody
16 of a probationer, parolee or person on extended supervision by the department of
17 corrections or a probation, extended supervision or parole officer or the custody of a
18 person who has been released to aftercare supervision under ch. 938 unless the
19 person is in actual custody or is subject to a confinement order under s. 973.09 (4).

20 **SECTION 46.** 946.42 (3m) of the statutes is created to read:

21 946.42 (3m) A person who intentionally escapes from custody under any of the
22 following circumstances is guilty of a Class F felony:

23 (a) While subject to a detention order under s. 980.04 (1) or a custody order
24 under s. 980.04 (3).

1 (b) While subject to an order issued under s. 980.06 committing the person to
2 custody of the department of health and family services, regardless of whether the
3 person is placed in institutional care or on supervised release.

4 **SECTION 47.** 950.04 (1v) (xm) of the statutes is amended to read:

5 950.04 (1v) (xm) To have the department of health and family services make
6 a reasonable attempt to notify the victim under s. 980.11 regarding supervised
7 release under s. 980.08 and discharge under s. 980.09 or ~~980.10~~ 980.093.

8 **SECTION 48.** 967.03 of the statutes is amended to read:

9 **967.03 District attorneys.** Wherever in chs. 967 to ~~979~~ 980 powers or duties
10 are imposed upon district attorneys, the same powers and duties may be discharged
11 by any of their duly qualified deputies or assistants.

12 **SECTION 49.** 972.15 (4) of the statutes is amended to read:

13 972.15 (4) After sentencing, unless otherwise authorized under sub. (5) or (6)
14 or ordered by the court, the presentence investigation report shall be confidential
15 and shall not be made available to any person except upon specific authorization of
16 the court.

17 **SECTION 50.** 972.15 (6) of the statutes is created to read:

18 972.15 (6) The presentence investigation report and any information contained
19 in it or upon which it is based may be used by any of the following persons in any
20 evaluation, examination, referral, hearing, trial, postcommitment relief proceeding,
21 appeal, or other proceeding under ch. 980:

22 (a) The department of corrections.

23 (b) The department of health and family services.

24 (c) The person who is the subject of the presentence investigation report, his
25 or her attorney, or an agent or employee of the attorney.

1 (d) The attorney representing the state or an agent or employee of the attorney.

2 (e) A licensed physician, licensed psychologist, or other mental health
3 professional who is examining the subject of the presentence investigation report.

4 (f) The court and, if applicable, the jury hearing the case.

5 **SECTION 51.** 973.155 (1) (c) of the statutes is created to read:

6 973.155 (1) (c) The categories in par. (a) include time during which the
7 convicted offender was in the custody of the department of health and family services
8 under ch. 980 only if the offender was confined during that time and the confinement
9 and the offender's conviction resulted from the same course of conduct.

10 **SECTION 52.** 978.03 (3) of the statutes is amended to read:

11 978.03 (3) Any assistant district attorney under sub. (1), (1m) or (2) must be
12 an attorney admitted to practice law in this state and, except as provided in ss.
13 978.043 (1) and 978.044, may perform any duty required by law to be performed by
14 the district attorney. The district attorney of the prosecutorial unit under sub. (1),
15 (1m), or (2) may appoint such temporary counsel as may be authorized by the
16 department of administration.

17 **SECTION 53.** 978.043 of the statutes is renumbered 978.043 (1) and amended
18 to read.

19 978.043 (1) The district attorney of the prosecutorial unit that consists of
20 Brown County and the district attorney of the prosecutorial unit that consists of
21 Milwaukee County shall each assign one assistant district attorney in his or her
22 prosecutorial unit to be a sexually violent person commitment prosecutor. An
23 assistant district attorney assigned under this section ~~subsection~~ to be a sexually
24 violent person commitment prosecutor may engage only in the prosecution of
25 sexually violent person commitment proceedings under ch. 980 and, at the request

1 of the district attorney of the prosecutorial unit, may file and prosecute sexually
2 violent person commitment proceedings under ch. 980 in any prosecutorial unit in
3 this state.

4 **SECTION 54.** 978.043 (2) of the statutes is created to read:

5 978.043 (2) If an assistant district attorney assigned under sub. (1) prosecutes
6 or assists in the prosecution of a case under ch. 980 in a prosecutorial unit other than
7 his or her own, the prosecutorial unit in which the case is heard shall reimburse the
8 assistant district attorney's own prosecutorial unit for his or her reasonable costs
9 associated with the prosecution, including transportation, lodging, and meals.
10 Unless otherwise agreed upon by the prosecutorial units involved, the court hearing
11 the case shall determine the amount of money to be reimbursed for expert witness
12 fees under this subsection.

13 **SECTION 55.** 978.045 (1r) (intro.) of the statutes is amended to read:

14 978.045 (1r) (intro.) Any judge of a court of record, by an order entered in the
15 record stating the cause ~~therefor~~ for it, may appoint an attorney as a special
16 prosecutor to perform, for the time being, or for the trial of the accused person, the
17 duties of the district attorney. An attorney appointed under this subsection shall
18 have all of the powers of the district attorney. The judge may appoint an attorney
19 as a special prosecutor at the request of a district attorney to assist the district
20 attorney in the prosecution of persons charged with a crime, in grand jury or John
21 Doe proceedings, in proceedings under ch. 980, or in investigations. The judge may
22 appoint an attorney as a special prosecutor if any of the following conditions exists:

23 **SECTION 56.** 978.05 (6) (a) of the statutes is amended to read:

24 978.05 (6) (a) Institute, commence or appear in all civil actions or special
25 proceedings under and perform the duties set forth for the district attorney under ch.

1 980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 103.50 (8), 103.92
2 (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),
3 946.86, 946.87, 961.55 (5), 971.14 and 973.075 to 973.077, perform any duties in
4 connection with court proceedings in a court assigned to exercise jurisdiction under
5 chs. 48 and 938 as the judge may request and perform all appropriate duties and
6 appear if the district attorney is designated in specific statutes, including matters
7 within chs. 782, 976 and 979 and ss. 51.81 to 51.85. Nothing in this paragraph limits
8 the authority of the county board to designate, under s. 48.09 (5), that the corporation
9 counsel provide representation as specified in s. 48.09 (5) or to designate, under s.
10 48.09 (6) or 938.09 (6), the district attorney as an appropriate person to represent the
11 interests of the public under s. 48.14 or 938.14.

12 **SECTION 57.** 978.05 (8) (b) of the statutes is amended to read:

13 978.05 (8) (b) Hire, employ, and supervise his or her staff and, subject to ss.
14 978.043 (1) and 978.044, make appropriate assignments of the staff throughout the
15 prosecutorial unit. The district attorney may request the assistance of district
16 attorneys, deputy district attorneys, or assistant district attorneys from other
17 prosecutorial units or assistant attorneys general who then may appear and assist
18 in the investigation and prosecution of any matter for which a district attorney is
19 responsible under this chapter in like manner as assistants in the prosecutorial unit
20 and with the same authority as the district attorney in the unit in which the action
21 is brought. Nothing in this paragraph limits the authority of counties to regulate the
22 hiring, employment, and supervision of county employees.

23 **SECTION 58.** 978.13 (2) of the statutes is renumbered 978.13 (2) (b).

24 **SECTION 59.** 978.13 (2) (a) of the statutes is created to read:

1 978.13 (2) (a) In this subsection, “costs related to the operation of the district
2 attorney’s office” include costs that a prosecutorial unit must pay under s. 978.043
3 (2) but do not include costs for which a prosecutorial unit receives reimbursement
4 under s. 978.043 (2).

5 **SECTION 60.** 980.01 (1) of the statutes is renumbered 980.01 (1m).

6 **SECTION 61.** 980.01 (1g) of the statutes is created to read:

7 980.01 (1g) “Act of sexual violence” means conduct that constitutes the
8 commission of a sexually violent offense.

9 **SECTION 62.** 980.01 (1m) of the statutes is created to read:

10 980.01 (1m) “Likely” means more likely than not.

11 **SECTION 63.** 980.01 (5) of the statutes is amended to read:

12 980.01 (5) “Sexually motivated” means that one of the purposes for an act is
13 for the actor’s sexual arousal or gratification or for the sexual humiliation or
14 degradation of the victim.

15 **SECTION 64.** 980.01 (6) (a) of the statutes is amended to read:

16 980.01 (6) (a) Any crime specified in s. 940.225 (1) ~~or~~, (2), or (3), 948.02 (1) or
17 (2), 948.025, 948.06, or 948.07.

18 **SECTION 65.** 980.01 (6) (am) of the statutes is created to read:

19 980.01 (6) (am) An offense that, prior to June 2, 1994, was a crime under the
20 law of this state and that is comparable to any crime specified in par. (a).

21 **SECTION 66.** 980.01 (6) (b) of the statutes is amended to read:

22 980.01 (6) (b) Any crime specified in s. 940.01, 940.02, 940.03, 940.05, 940.06,
23 940.19 (4) or (5), 940.195 (4) or (5), 940.30, 940.305, 940.31 ~~or~~, 941.32, 943.10, 943.32,
24 or 948.03 that is determined, in a proceeding under s. 980.05 (3) (b), to have been
25 sexually motivated.

SECTION 67

1 **SECTION 67.** 980.01 (6) (bm) of the statutes is created to read:

2 980.01 (6) (bm) An offense that, prior to June 2, 1994, was a crime under the
3 law of this state, that is comparable to any crime specified in par. (b) and that is
4 determined, in a proceeding under s. 980.05 (3) (b), to have been sexually motivated.

5 **SECTION 68.** 980.01 (6) (c) of the statutes is amended to read:

6 980.01 (6) (c) Any solicitation, conspiracy, or attempt to commit a crime under
7 par. (a) ~~or~~, (am), (b), or (bm).

8 **SECTION 69.** 980.01 (7) of the statutes is amended to read:

9 980.01 (7) “Sexually violent person” means a person who has been convicted
10 of a sexually violent offense, has been adjudicated delinquent for a sexually violent
11 offense, or has been found not guilty of or not responsible for a sexually violent
12 offense by reason of insanity or mental disease, defect, or illness, and who is
13 dangerous because he or she suffers from a mental disorder that makes it
14 ~~substantially probable~~ likely that the person will engage in one or more acts of sexual
15 violence.

16 **SECTION 70.** 980.015 (1) of the statutes is renumbered 980.015 (1) (intro.) and
17 amended to read:

18 980.015 (1) (intro.) In this section, “agency:

19 (a) “Agency with jurisdiction” means the agency with the authority or duty to
20 release or discharge the person.

21 **SECTION 71.** 980.015 (1) (b) of the statutes is created to read:

22 980.015 (1) (b) “Continuous term of incarceration, any part of which was
23 imposed for a sexually violent offense,” includes confinement in a secured
24 correctional facility, as defined in s. 938.02 (15m), or a secured child caring
25 institution, as defined in s. 938.02 (15g), or a secured group home, as defined in s.

1 938.02 (15p), if the person was placed in the facility for being adjudicated delinquent
2 under s. 48.34, 1993 stats., or under s. 938.183 or 938.34 on the basis of a sexually
3 violent offense.

4 **SECTION 72.** 980.015 (2) (intro.) of the statutes is amended to read:

5 980.015 (2) (intro.) If an agency with jurisdiction has control or custody over
6 a person who may meet the criteria for commitment as a sexually violent person, the
7 agency with jurisdiction shall inform each appropriate district attorney and the
8 department of justice regarding the person as soon as possible beginning ~~3 months~~
9 90 days prior to the applicable date of the following:

10 **SECTION 73.** 980.015 (2) (a) of the statutes is amended to read:

11 980.015 (2) (a) The anticipated discharge ~~from a sentence, anticipated or~~
12 ~~release, on parole or, extended supervision, or anticipated release otherwise, from a~~
13 sentence of imprisonment of a person who has been convicted of or term of
14 confinement in prison that was imposed for a conviction for a sexually violent offense,
15 from a continuous term of incarceration, any part of which was imposed for a sexually
16 violent offense, or from a placement in a Type 1 prison under s. 301.048 (3) (a) 1., any
17 part of which was imposed for a sexually violent offense.

18 **SECTION 74.** 980.015 (2) (b) of the statutes is amended to read:

19 980.015 (2) (b) The anticipated release from a secured correctional facility, as
20 defined in s. 938.02 (15m), or a secured child caring institution, as defined in s. 938.02
21 (15g), or a secured group home, as defined in s. 938.02 (15p), ~~of a~~ if the person was
22 placed in the facility as a result of being adjudicated delinquent under s. 48.34, 1993
23 stats., or under s. 938.183 or 938.34 on the basis of a sexually violent offense.

24 **SECTION 75.** 980.015 (2) (c) of the statutes is amended to read:

1 980.015 (2) (c) The anticipated release on conditional release under s. 971.17
2 or the anticipated termination of or discharge of a from a commitment order under
3 s. 971.17, if the person who has been found not guilty of a sexually violent offense by
4 reason of mental disease or defect under s. 971.17.

5 **SECTION 76.** 980.015 (2) (d) of the statutes is created to read:

6 980.015 (2) (d) The anticipated release on parole or discharge of a person
7 committed under ch. 975 for a sexually violent offense.

8 **SECTION 77.** 980.015 (4) of the statutes is renumbered 980.14 (2) and amended
9 to read:

10 980.14 (2) Any agency or officer, employee, or agent of an agency is immune
11 from criminal or civil liability for any acts or omissions as the result of a good faith
12 effort to comply with any provision of this section chapter.

13 **SECTION 78.** 980.02 (1) (a) of the statutes is amended to read:

14 980.02 (1) (a) The department of justice at the request of the agency with
15 jurisdiction, as defined in s. 980.015 (1), over the person. ~~If the department of justice~~
16 ~~decides to file a petition under this paragraph, it shall file the petition before the date~~
17 ~~of the release or discharge of the person.~~

18 **SECTION 79.** 980.02 (1) (b) 3. of the statutes is created to read:

19 980.02 (1) (b) 3. The county in which the person is in custody under a sentence,
20 a placement to a secured correctional facility, as defined in s. 938.02 (15m), a secured
21 child caring institution, as defined in s. 938.02 (15g), or a secured group home, as
22 defined in s. 938.02 (15p), or a commitment order.

23 **SECTION 80.** 980.02 (1m) of the statutes is created to read:

24 980.02 (1m) A petition filed under this section shall be filed before the person
25 is released or discharged.

1 **SECTION 81.** 980.02 (2) (ag) of the statutes is repealed.

2 **SECTION 82.** 980.02 (2) (c) of the statutes is amended to read:

3 980.02 (2) (c) The person is dangerous to others because the person's mental
4 disorder ~~creates a substantial probability~~ makes it likely that he or she will engage
5 in acts of sexual violence.

6 **SECTION 83.** 980.02 (4) (intro.) of the statutes is amended to read:

7 980.02 (4) (intro.) A petition under this section shall be filed in any one of the
8 following:

9 **SECTION 84.** 980.02 (6) of the statutes is created to read:

10 980.02 (6) A court assigned to exercise jurisdiction under chs. 48 and 938 does
11 not have jurisdiction over a petition filed under this section alleging that a child is
12 a sexually violent person.

13 **SECTION 85.** 980.03 (2) (intro.) of the statutes is amended to read:

14 980.03 (2) (intro.) Except as provided in ss. ~~980.09 (2) (a)~~ 980.038 (2) and
15 ~~980.10 980.093~~ and without limitation by enumeration, at any hearing under this
16 chapter, the person who is the subject of the petition has the right to:

17 **SECTION 86.** 980.03 (3) of the statutes is amended to read:

18 980.03 (3) The person who is the subject of the petition, the person's attorney,
19 the department of justice or the district attorney may request that a trial under s.
20 980.05 be to a jury of ~~12~~. A request for a jury trial shall be made as provided under
21 s. 980.05 (2). Notwithstanding s. 980.05 (2), if the person, the person's attorney, the
22 department of justice or the district attorney does not request a jury trial, the court
23 may on its own motion require that the trial be to a jury of ~~12~~. The jury shall be
24 selected as provided under s. 980.05 (2m). A verdict of a jury under this chapter is
25 not valid unless it is unanimous.

SECTION 87

1 **SECTION 87.** 980.03 (4) of the statutes is renumbered 980.031 (3) and amended
2 to read:

3 980.031 (3) Whenever a person who is the subject of a petition filed under s.
4 980.02 or who has been committed under s. 980.06 is required to submit to an
5 examination of his or her mental condition under this chapter, he or she may retain
6 ~~experts or~~ a licensed physician, licensed psychologist, or other mental health
7 ~~professional persons~~ to perform an examination. If the person is indigent, the court
8 shall, upon the person's request, appoint a qualified and available licensed
9 physician, licensed psychologist, or other mental health professional to perform an
10 examination of the person's mental condition and participate on the person's behalf
11 in a trial or other proceeding under this chapter at which testimony is authorized.
12 Upon the order of the circuit court, the county shall pay, as part of the costs of the
13 action, the costs of a licensed physician, licensed psychologist, or other mental health
14 professional appointed by a court under this subsection to perform an examination
15 and participate in the trial or other proceeding on behalf of an indigent person.

16 (4) If the person a party retains ~~a qualified expert~~ or the court appoints a
17 licensed physician, licensed psychologist, or other mental health professional person
18 of his or her own choice to conduct an examination under this chapter of the person's
19 mental condition, the examiner shall have reasonable access to the person for the
20 purpose of the examination, as well as to the person's past and present treatment
21 records, as defined in s. 51.30 (1) (b), and patient health care records as provided
22 under s. 146.82 (2) (e). ~~If the person is indigent, the court shall, upon the person's~~
23 ~~request, appoint a qualified and available expert or professional person to perform~~
24 ~~an examination and participate in the trial or other proceeding on the person's~~
25 ~~behalf. Upon the order of the circuit court, the county shall pay, as part of the costs~~

1 ~~of the action, the costs of an expert or professional person appointed by a court under~~
2 ~~this subsection to perform an examination and participate in the trial or other~~
3 ~~proceeding on behalf of an indigent person. An expert (cm), past and present juvenile~~
4 ~~records, as provided under ss. 48.396 (6), 48.78 (2) (e), 938.396 (10), and 938.78 (2)~~
5 ~~(e), and the person's past and present correctional records, including presentence~~
6 ~~investigation reports under s. 972.15 (6).~~

7 (5) A licensed physician, licensed psychologist, or other mental health
8 professional person appointed to assist an indigent person who is subject to a petition
9 who is expected to be called as a witness by one of the parties or by the court may not
10 be subject to any order by the court for the sequestration of witnesses at any
11 proceeding under this chapter. No licensed physician, licensed psychologist, or other
12 mental health professional who is expected to be called as a witness by one of the
13 parties or by the court may be permitted to testify at any proceeding under this
14 chapter unless a written report of his or her examination has been submitted to the
15 court and to both parties at least 10 days before the proceeding.

16 **SECTION 88.** 980.03 (5) of the statutes is repealed.

17 **SECTION 89.** 980.031 (title) of the statutes is created to read:

18 **980.031 (title) Examinations.**

19 **SECTION 90.** 980.031 (1) and (2) of the statutes are created to read:

20 980.031 (1) If a person who is the subject of a petition filed under s. 980.02
21 denies the facts alleged in the petition, the court may appoint at least one qualified
22 licensed physician, licensed psychologist, or other mental health professional to
23 conduct an examination of the person's mental condition and testify at trial.

24 (2) The state may retain a licensed physician, licensed psychologist, or other
25 mental health professional to examine the mental condition of a person who is the

1 subject of a petition under s. 980.02 or who has been committed under s. 980.06 and
2 to testify at trial or at any other proceeding under this chapter at which testimony
3 is authorized.

4 SECTION 91. 980.034 of the statutes is created to read:

5 **980.034 Change of place of trial or jury from another county.** (1) The
6 person who is the subject of a petition filed under s. 980.02 or who has been
7 committed under this chapter may move for a change of the place of a jury trial under
8 s. 980.05 on the ground that an impartial trial cannot be had in the county in which
9 the trial is set to be held. The motion shall be made within 20 days after the
10 completion or waiver of the probable cause hearing under s. 980.04 (2), whichever is
11 applicable, except that it may be made after that time for cause.

12 (2) The motion shall be in writing and supported by affidavit which shall state
13 evidentiary facts showing the nature of the prejudice alleged. The department of
14 justice or the district attorney, whichever filed the petition under s. 980.02, may file
15 counter-affidavits.

16 (3) If the court determines that there exists in the county where the action is
17 pending such prejudice that a fair trial cannot be had, it shall, except as provided in
18 sub. (4), order that the trial be held in any county where an impartial trial can be had.
19 Only one change may be granted under this subsection. The judge who orders the
20 change in the place of trial shall preside at the trial. Preliminary matters prior to
21 trial may be conducted in either county at the discretion of the court.

22 (4) (a) Instead of changing the place of trial under sub. (3), the court may
23 require the selection of a jury under par. (b) if all of the following apply:

24 1. The court has decided to sequester the jurors after the commencement of the
25 trial.

1 2. There are grounds for changing the place of trial under sub. (1).

2 3. The estimated costs to the county appear to be less using the procedure under
3 this subsection than using the procedure for holding the trial in another county.

4 (b) If the court decides to proceed under this subsection it shall follow the
5 procedure under sub. (3) until the jury is chosen in the 2nd county. At that time, the
6 proceedings shall return to the original county using the jurors selected in the 2nd
7 county. The original county shall reimburse the 2nd county for all applicable costs
8 under s. 814.22.

9 **SECTION 92.** 980.036 of the statutes is created to read:

10 **980.036 Discovery and inspection.** (1) DEFINITIONS. In this section:

11 (a) “Person subject to this chapter” means a person who is subject to a petition
12 filed under s. 980.02 or a person who has been committed under s. 980.06.

13 (b) “Prosecuting attorney” means an attorney representing the state in a
14 proceeding under this chapter.

15 (2) **WHAT A PROSECUTING ATTORNEY MUST DISCLOSE TO A PERSON SUBJECT TO THIS**
16 **CHAPTER.** Upon demand, a prosecuting attorney shall, within a reasonable time after
17 the probable cause hearing and before a trial under s. 980.05 or other proceeding
18 under s. 980.07 (7), 980.09 (2m), or 980.093 (3), disclose to a person subject to this
19 chapter or the person’s attorney, and permit the person or the person’s attorney to
20 inspect and copy or photograph, all of the following materials and information, if the
21 material or information is within the possession, custody, or control of the state:

22 (a) Any written or recorded statement made by the person concerning the
23 allegations in the petition filed under s. 980.02 or concerning other matters at issue
24 in the trial or proceeding and the names of witnesses to the person’s written
25 statements.

1 (b) A written summary of all oral statements of the person that the prosecuting
2 attorney plans to use in the course of the trial or proceeding and the names of
3 witnesses to the person's oral statements.

4 (c) Evidence obtained in the manner described under s. 968.31 (2) (b), if the
5 prosecuting attorney intends to use the evidence at the trial or proceeding.

6 (d) A copy of the person's criminal record.

7 (e) A list of all witnesses, and their addresses, whom the prosecuting attorney
8 intends to call at the trial or proceeding. This paragraph does not apply to rebuttal
9 witnesses or witnesses called for impeachment only.

10 (f) Any relevant written or recorded statements of a witness named on a list
11 under par. (e), including all of the following:

12 1. Any videotaped oral statement of a child under s. 908.08.

13 2. Any reports prepared in accordance with s. 980.031 (5).

14 (g) The results of any physical or mental examination or any scientific or
15 psychological test, experiment, or comparison that the prosecuting attorney intends
16 to offer in evidence at the trial or proceeding, and any raw data that were collected,
17 used, or considered in any manner as part of the examination, test, experiment, or
18 comparison.

19 (h) The criminal record of a witness for the state that is known to the
20 prosecuting attorney.

21 (i) Any physical or documentary evidence that the prosecuting attorney intends
22 to offer in evidence at a trial or proceeding.

23 (j) Any exculpatory evidence.

24 **(3) WHAT A PERSON SUBJECT TO THIS CHAPTER MUST DISCLOSE TO THE PROSECUTING**
25 **ATTORNEY.** Upon demand, a person who is subject to this chapter or the person's

1 attorney shall, within a reasonable time after the probable cause hearing and before
2 a trial under s. 980.05 or other proceeding under s. 980.07 (7), 980.09 (2m), or 980.093
3 (3), disclose to the prosecuting attorney, and permit the prosecuting attorney to
4 inspect and copy or photograph, all of the following materials and information, if the
5 material or information is within the possession, custody, or control of the person or
6 the person's attorney:

7 (a) A list of all witnesses, other than the person, whom the person intends to
8 call at the trial or proceeding, together with their addresses. This paragraph does
9 not apply to rebuttal witnesses or witnesses called for impeachment only.

10 (b) Any relevant written or recorded statements of a witness named on a list
11 under par. (a), including any reports prepared in accordance with s. 980.031 (5).

12 (c) The results of any physical or mental examination or any scientific or
13 psychological test, experiment, or comparison that the person intends to offer in
14 evidence at the trial or proceeding, and any raw data that were collected, used, or
15 considered in any manner as part of the examination, test, experiment, or
16 comparison.

17 (d) The criminal record of a witness named on a list under par. (a) if the criminal
18 record is known to the person's attorney.

19 (e) Any physical or documentary evidence that the person intends to offer in
20 evidence at the trial or proceeding.

21 (4) COMMENT OR INSTRUCTION ON FAILURE TO CALL WITNESS. No comment or
22 instruction regarding the failure to call a witness at the trial may be made or given
23 if the sole basis for the comment or instruction is the fact that the name of the witness
24 appears upon a list furnished under this section.

1 **(5) TESTING OR ANALYSIS OF EVIDENCE.** On motion of a party, the court may order
2 the production of any item of evidence or raw data that is intended to be introduced
3 at the trial for testing or analysis under such terms and conditions as the court
4 prescribes.

5 **(6) PROTECTIVE ORDER.** Upon motion of a party, the court may at any time order
6 that discovery, inspection, or the listing of witnesses required under this section be
7 denied, restricted, or deferred, or make other appropriate orders. If the prosecuting
8 attorney or the attorney for a person subject to this chapter certifies that to list a
9 witness may subject the witness or others to physical or economic harm or coercion,
10 the court may order that the deposition of the witness be taken pursuant to s. 967.04
11 (2) to (6). The name of the witness need not be divulged prior to the taking of such
12 deposition. If the witness becomes unavailable or changes his or her testimony, the
13 deposition shall be admissible at trial as substantive evidence.

14 **(7) IN CAMERA PROCEEDINGS.** Either party may move for an in camera inspection
15 by the court of any document required to be disclosed under sub. (2) or (3) for the
16 purpose of masking or deleting any material that is not relevant to the case being
17 tried. The court shall mask or delete any irrelevant material.

18 **(8) CONTINUING DUTY TO DISCLOSE.** If, subsequent to compliance with a
19 requirement of this section, and prior to or during trial, a party discovers additional
20 material or the names of additional witnesses requested that are subject to discovery,
21 inspection, or production under this section, the party shall promptly notify the other
22 party of the existence of the additional material or names.

23 **(9) SANCTIONS FOR FAILURE TO COMPLY.** (a) The court shall exclude any witness
24 not listed or evidence not presented for inspection, copying, or photographing

1 required by this section, unless good cause is shown for failure to comply. The court
2 may in appropriate cases grant the opposing party a recess or a continuance.

3 (b) In addition to or in place of any sanction specified in par. (a), a court may,
4 subject to sub. (4), advise the jury of any failure or refusal to disclose material or
5 information required to be disclosed under sub. (2) or (3), or of any untimely
6 disclosure of material or information required to be disclosed under sub. (2) or (3).

7 (10) PAYMENT OF PHOTOCOPY COSTS IN CASES INVOLVING INDIGENT RESPONDENTS.
8 When the state public defender or a private attorney appointed under s. 977.08
9 requests photocopies of any item that is discoverable under this section, the state
10 public defender shall pay any fee charged for the photocopies from the appropriation
11 under s. 20.550 (1) (a). If the person providing photocopies under this section charges
12 the state public defender a fee for the photocopies, the fee may not exceed the actual,
13 necessary, and direct cost of photocopying.

14 (11) EXCLUSIVE METHOD OF DISCOVERY. Chapter 804 does not apply to
15 proceedings under this chapter. This section provides the only methods of obtaining
16 discovery and inspection in proceedings under this chapter.

17 SECTION 93. 980.038 of the statutes is created to read:

18 **980.038 Miscellaneous procedural provisions. (1) MOTIONS CHALLENGING**
19 JURISDICTION OR COMPETENCY OF COURT OR TIMELINESS OF PETITION. (a) A motion
20 challenging the jurisdiction or competency of the court or the timeliness of a petition
21 filed under s. 980.02 shall be filed within 10 days after the court holds the probable
22 cause hearing under s. 980.04 (2). Failure to file a motion within the time specified
23 in this paragraph waives the right to challenge the jurisdiction or competency of the
24 court or the timeliness of a petition filed under s. 980.02.

1 (b) Notwithstanding s. 801.11, a court may exercise personal jurisdiction over
2 a person who is the subject of a petition filed under s. 980.02 even though the person
3 is not served as provided under s. 801.11 (1) or (2) with a verified petition and
4 summons or with an order for detention under s. 980.04 (1) and the person has not
5 had a probable cause hearing under s. 980.04 (2).

6 (2) EVIDENCE OF REFUSAL TO PARTICIPATE IN EXAMINATION. (a) At any hearing
7 under this chapter, the state may present evidence or comment on evidence that a
8 person who is the subject of a petition filed under s. 980.02 or a person who has been
9 committed under this chapter refused to participate in an examination of his or her
10 mental condition that was being conducted under this chapter or that was conducted
11 before the petition under s. 980.02 was filed for the purpose of evaluating whether
12 to file a petition.

13 (b) A licensed physician, licensed psychologist, or other mental health
14 professional may indicate in any written report that he or she prepares in connection
15 with a proceeding under this chapter that the person whom he or she examined
16 refused to participate in the examination.

17 (3) TESTIMONY BY TELEPHONE OR LIVE AUDIOVISUAL MEANS. Unless good cause to
18 the contrary is shown, proceedings under ss. 980.04 (2) (a) and 980.08 (5) (d) may be
19 conducted by telephone or audiovisual means, if available. If the proceedings are
20 required to be reported under SCR 71.02 (2), the proceedings shall be reported by a
21 court reporter who is in simultaneous voice communication with all parties to the
22 proceeding. Regardless of the physical location of any party to the telephone call, any
23 action taken by the court or any party shall have the same effect as if made in open
24 court. The proceedings shall be conducted in a courtroom or other place reasonably
25 accessible to the public. Simultaneous access to the proceeding shall be provided to

1 persons entitled to attend by means of a loudspeaker or, upon request to the court,
2 by making a person party to the telephone call without charge.

3 (4) MOTIONS FOR POSTCOMMITMENT RELIEF; APPEAL. (a) A motion for
4 postcommitment relief by a person committed under s. 980.06 shall be made in the
5 time and manner provided in ss. 809.30 and 809.40. An appeal by a person who has
6 been committed under s. 980.06 from a final order under s. 980.06, 980.08, or 980.09
7 or from an order denying a motion for postcommitment relief or from both shall be
8 taken in the time and manner provided in ss. 808.04 (3), 809.30, and 809.40. If a
9 person is seeking relief from an order of commitment under s. 980.06, the person
10 shall file a motion for postcommitment relief in the trial court prior to an appeal
11 unless the grounds for seeking relief are sufficiency of the evidence or issues
12 previously raised.

13 (b) An appeal by the state from a final judgment or order under this chapter
14 may be taken to the court of appeals within the time specified in s. 808.04 (4) and in
15 the manner provided for civil appeals under chs. 808 and 809.

16 (5) FAILURE TO COMPLY WITH TIME LIMITS; EFFECT. Failure to comply with any time
17 limit specified in this chapter does not deprive the circuit court of personal or subject
18 matter jurisdiction or of competency to exercise that jurisdiction. Failure to comply
19 with any time limit specified in this chapter is not grounds for an appeal or grounds
20 to vacate any order, judgment, or commitment issued or entered under this chapter.
21 Failure to object to a period of delay or a continuance waives the time limit that is
22 the subject of the period of delay or continuance.

23 (6) ERRORS AND DEFECTS NOT AFFECTING SUBSTANTIAL RIGHTS. The court shall, in
24 every stage of a proceeding under this chapter, disregard any error or defect in the
25 pleadings or proceedings that does not affect the substantial rights of either party.